bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3038 OF 2007

The State of Maharashtra & ors. ... Petitioners

V/s

Smt. Jagan Hiraman Gaware ... Respondent

ALONGWITH
WRIT PETITION NO. 3941 OF 2007

The State of Maharashtra & ors. ... Petitioners

V/s

Smt. Sindhubai Deoram Argad ... Respondent

ALONGWITH
WRIT PETITION NO. 3948 OF 2007

The State of Maharashtra & ors. ... Petitioners

V/s

Smt. Mangala Bhaskar Jadhav ... Respondent

ALONGWITH
WRIT PETITION NO. 3954 OF 2007

The State of Maharashtra & ors. ... Petitioners

V/s

Smt. Pakhrabai Lahanu Dhule ... Respondent

AND
WRIT PETITION NO. 3956 OF 2007

The State of Maharashtra & ors. ... Petitioners

V/s

Smt. Shantabai Sitaram Sheware ... Respondent

Mr. A.P. Vanarase, Asstt. Government Pleader for the petitioners in all petitions.

Ms. Seema Sarnaik for the respondents in all petitions.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 2ND JULY, 2007.

P.C.:

1. These petitions challenge the judgment of the Industrial Court dated 1.9.2005. The judgment is a common judgment passed by the Industrial Court in Complaint (ULP) Nos. 116 to 120 of 2001.

2. The complainant in each of these complaints has contended that the petitioners have committed an unfair labour practice under Items 5, 6, 9 & 10 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971. The complainants were in the employment of the respondent since 1984, except the complainant in Complaint (ULP) No. 116 of 2001 who was employed in 1994. They were working in the Horticulture Department of the petitioners. According to the complainants, they have all completed 240 days in service and the petitioners have failed to make them permanent. In these circumstances, the complainants challenged the action of the petitioners by filing the aforesaid complaints.

3. The contention raised by the petitioners that the complainants were seasonal employees has been negatived by the Industrial Court. It has held that the complainants have completed 240 days in each year since they have been working at least 26 days in a month. The Industrial Court has held that the Horticulture Department is an industry based on the judgment of the Apex Court. It is in these circumstances that the Industrial Court has held that the petitioners have indulged in unfair labour practices under Items 6 and 9 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971. The Industrial Court rejected the contention of the complainants that the petitioners had indulged in an unfair labour practice under Items 5 and 10 of Schedule IV of the Act. The petitioners have been directed to make the respondent workmen permanent w.e.f. 17.8.2001.

4. Mr. Vanarase, the learned Government Pleader appearing for the petitioners contends that the Industrial Court did not permit the petitioners to lead evidence and instead closed the case for arguments. A perusal of the roznama indicates that on 19.10.2004 the matter was adjourned for the petitioners' evidence. Thereafter the petitioners either did not remain present on the date of the hearing or sought an adjournment for

leading evidence. The complaints were adjourned on seven occasions and thereafter the matters were fixed for arguments. Even at this stage, the petitioners sought adjournments on several occasions. Therefore, the submission of the learned Assistant Government Pleader that the matter should be remanded for deciding it afresh cannot be accepted. Apart from this, the order of the Industrial Court is dated 1.9.2005 and the petition has been filed in April, 2007, almost after two years.

5. In such circumstances, there is no need to interfere with the order impugned in these petitions.

6. All the writ petitions rejected.

.....